TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENTDocket Number (Optional)
491442007511

In re Application of: David BREWER et al.

Application No.: 09/849,102

Filed: May 4, 2001

For: AUTOMATIC ISOLATION IN LOOPS

The owner, Emulex Design & Manufacturing Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent No. 6,289,002 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;
is held unenforceable;
is found invalid by a court of competent jurisdiction;
is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
has all claims canceled by a reexamination certificate;
is reissued; or
is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 44,197


Signature

Nov. 22, 2004

Date

Glenn M. Kubota
Typed or printed name

(213) 892-5752
Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) is included (Fee Transmittal PTO/SB/17 attached in duplicate).

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

11/29/2004 MIEKONEN 0000063 031952 09849102

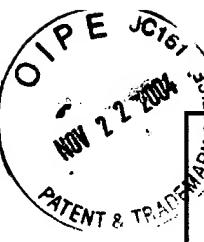
01 FC:1814 110.00 DA

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV473940977US, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: November 22, 2004

Signature: 

(Marco Jimenez)



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FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 110.00)

Complete if Known	
Application Number	09/849,102
Filing Date	May 4, 2001
First Named Inventor	David BREWER et al.
Examiner Name	Robert W. Wilson
Art Unit	2661
Attorney Docket No.	491442007511

METHOD OF PAYMENT (check all that apply)		FEE CALCULATION (continued)			
<input type="checkbox"/> Check	<input type="checkbox"/> Credit Card	<input type="checkbox"/> Money Order	<input type="checkbox"/> Other	<input type="checkbox"/> None	
Deposit Account:					
Deposit Account Number	03-1952				
Deposit Account Name	Morrison & Foerster LLP				
The Director is authorized to: (check all that apply)					
<input type="checkbox"/> Charge fee(s) indicated below	<input checked="" type="checkbox"/> Credit any overpayments				
<input checked="" type="checkbox"/> Charge any additional fee(s) or any underpayment of fee(s)					
<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.					
FEE CALCULATION					
1. BASIC FILING FEE					
Large Entity	Small Entity	Fee Description		Fee Paid	
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1) (\$)		0.00			
2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE					
Large Entity		Small Entity	Extra Claims	Fee from below	Fee Paid
Total Claims			-20** =	<input type="text"/> x <input type="text"/> = <input type="text"/>	
Independent Claims			-3** =	<input type="text"/> x <input type="text"/> = <input type="text"/>	
Multiple Dependent				<input type="text"/> = <input type="text"/>	
SUBTOTAL (2) (\$)		0.00			
**or number previously paid, if greater; For Reissues, see above					
(Complete if applicable)					
Name (Print/Type)	Glenn M. Kubota		Registration No. (Attorney/Agent)	44,197	Telephone (213) 892-5752
Signature			Date	November 22, 2004	

3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)
1051	130	2051	65 Surcharge - late filing fee or oath
1052	50	2052	25 Surcharge - late provisional filing fee or cover sheet.
1053	130	1053	130 Non-English specification
1812	2,520	1812	2,520 For filing a request for ex parte reexamination
1804	920*	1804	920* Requesting publication of SIR prior to Examiner action
1805	1,840*	1805	1,840* Requesting publication of SIR after Examiner action
1251	110	2251	55 Extension for reply within first month
1252	430	2252	215 Extension for reply within second month
1253	980	2253	490 Extension for reply within third month
1254	1,530	2254	765 Extension for reply within fourth month
1255	2,080	2255	1,040 Extension for reply within fifth month
1401	340	2401	170 Notice of Appeal
1402	340	2402	170 Filing a brief in support of an appeal
1403	300	2403	150 Request for oral hearing
1451	1,510	1451	1,510 Petition to institute a public use proceeding
1452	110	2452	55 Petition to revive - unavoidable
1453	1,370	2453	685 Petition to revive - unintentional
1501	1,370	2501	685 Utility issue fee (or reissue)
1502	490	2502	245 Design issue fee
1503	660	2503	330 Plant issue fee
1460	130	1460	130 Petitions to the Commissioner
1807	50	1807	50 Processing fee under 37 CFR 1.17(q)
1806	180	1806	180 Submission of Information Disclosure Stmt
8021	40	8021	40 Recording each patent assignment per property (times number of properties)
1809	790	2809	395 Filing a submission after final rejection (37 CFR 1.129(a))
1810	790	2810	395 For each additional invention to be examined (37 CFR 1.129(b))
1801	790	2801	395 Request for Continued Examination (RCE)
1802	900	1802	900 Request for expedited examination of a design application
Other fee (specify)		Terminal Disclaimer	
		110.00	

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

110.00

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